IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 5937 of 2007()

CRIME NO. 60/2007 OF CHEEMENI POLICE STATION

PETITIONER/3RD ACCUSED

SHAMIK P.V., S/O. KRISHNAN, AGED 26 YEAR
RESIDING AT APPU KRIPA TEMPLE ROAD,
PAYYANNUR, KANNUR DISTRICT.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS: COMPLAINANT/STATE

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1. STATE OF KERALA REP. BY ITS
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
CHEEMENI POLICE STATION,
KASARAGODE DISTRICT.

3. THE DY.SUPERINTENDENT OF POLICE
KANJANGAD, KASARAGODE DISTRICT.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 5937 of 2007

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Dated this the 3rd day of October, 2007

ORDER

Application for anticipatory bail. Petitioner is the 3rd accused. Altogether there are three accused persons. They face allegations under Section 392 IPC. The 1st accused has been arrested. The 2nd accused is not available for arrest. The petitioner apprehends imminent arrest.

2. The crux of the allegations against the petitioner is that on 11.5.07, three young persons traveling on a motor cycle snatched away the gold chain worn by the de facto complainant. Investigation has revealed to the Police that the 1st accused was the principal miscreant. He has already been arrested on 23.5.07. Interrogation of the 1st accused has revealed the complicity of the 2nd and 3rd accused. The vehicle in which the miscreant were allegedly traveling was one belonging to the petitioner herein, it is further alleged. The petitioner has to be arrested. Attempt will have to be made to ascertain whether he can be identified by victim and witnesses. In any view of the matter, there is absolutely no necessity or justification to issue directions under Sec.438 in favour of the petitioner. The petitioner may be directed to resort to the

ordinary and normal course of appearing before the learned Magistrate and then seek regular bail, submits the learned Public Prosecutor.

3. In the facts and circumstances of this case, I find merit in the opposition by the learned Public Prosecutor. The general and vague submission that the 1st accused has animosity against the petitioner herein and is hence making false allegations against the petitioner cannot at the moment inspire the confidence of the Court and persuade the Court to issue directions under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj /TRUE COPY/

P.A.TO JUDGE